



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

*ch*

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/605,390	06/28/2000	Jean-Francois Delmas	2000 0918A	6568
7590 04/13/2004				
Wenderoth Lind & Ponack LLP				
Suite 800				
2033 K Street NW				
Washington, DC 20006				
		EXAMINER		
		GUADALUPE, YARITZA		
		ART UNIT		PAPER NUMBER
		2859		

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/605,390

Applicant(s)

DELMAS ET AL.

Examiner

Yaritza Guadalupe

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-23 is/are allowed.
- 6) ☒ Claim(s) 24 and 30 is/are rejected.
- 7) ☒ Claim(s) 25-29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

In response to Amendment filed February 2, 2004

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 24 and 30 are rejected under 35 U.S.C. 102 ( b ) as being anticipated by Hamilton ( US 5,119,564 ).

Hamilton et al. discloses as part of the Prior Art ( Figures 1 and 2 ) a metrology target marker device comprising a target member ( 11 ) and a support ( 10 ) for that target member, characterized in that the support includes a receptacle head ( See the upward portion in element # 10 ) for inserting a target member, that receptacle head including a housing for inserting the target member opening to the outside via an outwardly flared frustoconical seat, and the target member ( 11 ) includes a flange having a spherical annular lateral surface adapted to bear tangentially against the frustoconical seat ( As suggested from Figure 2 ) and a second surface on which a plate ( 12 ) is extending out and upstanding perpendicularly on the flange in an

Art Unit: 2859

equatorial plane of a spherical surface ( 11 ) of which the lateral surface of the spherical ring flange is part, that plate having two parallel planar faces.

Hamilton et al. also teaches a device comprising the plate ( 12 ) being upstanding on a circular increased thickness portion of one face of the flange, and also characterized in that the target member includes a generally cylindrical body ( 11 ) joined to the flange and adapted to be inserted into the housing of the receptacle head of the support ( 10 ). Hamilton et al. discloses the spherical surface ( 11 ) being part of a sphere considered to have a diameter approximately 25 mm to approximately 35 mm. Hamilton et al. discloses a member as part of the support ( 10 ) in the form of a ring forming a nut having an inside connecting means cooperating with an outside connecting means of the receptacle head of the support and an inside surface for clamping the flange against the head ( 12 ).

Hamilton et al. does not discloses the screwthread mechanism for engaging the ring shaped assembly and the receptacle head as stated in claim 24.

Regarding claim 24 : Hamilton et al. discloses a member as part of the support ( 10 ) in the form of a ring forming a nut having an inside connecting means cooperating with an outside connecting means of the receptacle head of the support and an inside surface for clamping the flange against the head ( 12 ) but does not discloses said connecting means being a screwthread as stated in claim 1. The use of the particular type of connecting means claimed by applicant, i.e., screwthread, absent any criticality, is considered to be nothing more than a choice of engineering

Art Unit: 2859

skill, choice or design because 1) neither non-obvious nor unexpected results, i.e., results which are different in kind and not in degree from the results of the prior art, will be obtained as long as the ring shaped assembly member and the receptacle head are securely connected together, as already suggested by Hamilton et al., 2) the connecting means claimed by Applicant and the connecting means used by Hamilton et al. are well known alternate types of connecting means which will perform the same function, if one is replaced with the other, of securely connecting the ring shaped assembly member and the receptacle head, and 3) the use of the particular type of connecting means by Applicant is considered to be nothing more than the use of one of numerous and well known alternate types of connecting means that a person having ordinary skill in the art would have been able to provide using routine experimentation in order to securely connect the ring shaped assembly member and the receptacle head as already suggested by Hamilton et al.

***Allowable Subject Matter***

3. Claims 11 - 23 allowed.

4. Claims 25 – 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

5. Applicant's arguments, see pages 7 – 10 of the remarks, filed February 2, 2004, with respect to the rejection(s) of claim(s) 1 - 10 under USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Hamilton et al.

*Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2859

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (571)272 -2244.

The examiner can normally be reached on 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yaritza Guadalupe  
Patent Examiner  
Art Unit 2859  
April 5, 2004

DIEGO F.F. GUTIERREZ  
SUPERVISOR PATENT EXAMINER  
TECHNOLOGY CENTER 2800